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SENATE

REPORT
102-212

INCREASING FEDERAL PAYMENTS IN LIEU OF TAXES TO UNITS OF GENERAL LOCAL GOVERNMENT

NOVEMBER 13, 1991.—Ordered to be printed

Mr. JOHNSTON, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 140]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 140) to increase Federal payments in lieu of taxes to units of general local government, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

On page 3, strike lines 4 through 9, and insert in lieu thereof:

> (d) The Secretary of the Interior shall, on October 1, 1992, and each October 1 thereafter, adjust each dollar amount specified in subsections (b) and (c) to reflect changes in the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor, for the 12 months ending the preceding June 30.

At the end of the bill, insert the following new section:

> **SEC. 3. LAND EXCHANGES.**
>
> Section 6902(b) of title 31, United States Code, is amended by striking "acquisition." and inserting in lieu thereof "acquisition, nor does this subsection apply to payments for lands conveyed to the United States in exchange for Federal lands."

59-010

S313-39

Purpose of the Measure

The purposes of S. 140, as ordered reported, are to increase Federal payments in lieu of taxes (PILT) to units of local government and to provide for an annual adjustment of the PILT payments for inflation.

Background and Need

The PILT enabling legislation (31 U.S.C. 6901 et seq.) set forth a formula, based on acreage, population and amount of other Federal payments, whereby local governments are compensated for the presence of certain tax-exempt Federal lands. For 14 years, the PILT program has received approximately the same level of funding ($105 million). While based on the current formula, this amount essentially represents full funding for this program, the payments in constant dollars are now worth less than half of what they were when the program was initiated in 1976. PILT payments to local governments take on greater significance as revenues from resource extraction activities (timber harvesting, mineral leasing, etc.) on public lands decline and growing recreation use increases the demand for local services. S. 140 would raise the amount authorized for the PILT program by 120 percent to approximately $220 million.

S. 140 also addresses an inequity in the existing law. The PILT Act of 1976 prohibits payments for tax exempt lands acquired (but not donated) from State or local governments. Accordingly, when a State exchanges lands with the Federal Government, it loses PILT payments on the Federal lands it acquires as a result of the exchange and is ineligible for PILT payments on the former State lands because these lands were not subject to real estate taxes prior to the exchange. As a result, the entitlement land base under PILT has eroded for counties that must still provide services when lands become Federal property. S. 140 removes this limitation so that States will not lose PILT payments as a result of entering into land exchanges with the United States.

Legislative History

S. 140 was introduced by Senator Wirth and six other Senators on January 14, 1991. An identical bill, S. 3128, was introduced in the 101st Congress, but no further action was taken. The Subcommittee on Public Lands, National Parks and Forests held a hearing on S. 140 on July 23, 1991.

At the business meeting on October 30, 1991, the Committee on Energy and Natural Resources ordered S. 140, as amended, favorably reported.

Committee Recommendations and Tabulation of Votes

The Committee on Energy and Natural Resources, in open business session on October 30, 1991, by a unanimous vote of a quorum present, recommends that the Senate pass S. 140, if amended as described herein.

The roll call vote on reporting the measure was 20 yeas, 0 nays, as follows:

YEAS	NAYS
Mr. Johnston	
Mr. Bumpers	
Mr. Ford*	
Mr. Bradley*	
Mr. Bingaman	
Mr. Wirth	
Mr. Conrad	
Mr. Akaka*	
Mr. Fowler*	
Mr. Shelby*	
Mr. Wellstone*	
Mr. Wallop	
Mr. Hatfield	
Mr. Domenici	
Mr. Murkowski	
Mr. Nickles*	
Mr. Burns	
Mr. Craig	
Mr. Seymour*	
Mr. Garn	

*Indicates voted by proxy.

Committee Amendments

During the consideration of S. 140, the Committee adopted two amendments. The first amendment ensures that States do not lose Federal PILT payments as a result of entering into mutually beneficial land exchanges involving State and Federal lands.

Section 6902(b) of title 31, United States Code, provides that the Federal Government may not make PILT payments on lands that were exempt from real estate when the land was conveyed to the United States. When a State exchanges lands with the Federal Government, it loses PILT payments on the Federal lands it acquires as a result of the exchange and is ineligible for PILT payments on the former State lands because these lands were not subject to real estate taxes. As a result, the entitlement land base under PILT has eroded for counties that must still provide services when lands become Federal property.

This amendment addresses this inequity by allowing States, in calculating future PILT payments, to include those lands that, but for the section 6902(b) prohibition, would be eligible for PILT.

The second amendment clarifies how PILT payments will be indexed for inflation. The subsection provides that the Secretary of the Interior shall, each October 1, adjust the dollar amounts specified in the formulas for calculating PILT payments and the population limitations to reflect changes in the Consumer Price Index for the year the preceding June 30.

Section-by-Section Analysis

Section 1(a) amends 31 U.S.C. 6903(b)(1) to increase PILT payments by changing the formulas used to calculate such payments from 75 cents an acre to $1.65, and from 10 cents an acre to 22 cents.

Subsection 1(b) amends 31 U.S.C. 6903(c)(1) to raise the ceiling of PILT payments by amending the table that caps payments according to population. The subsection replaces the limit of "$50 times the population" with "$110 times the population" and amends the table to reflect corresponding increased amounts for each population size.

Section 2 adds a new subsection to 31 U.S.C. 6903 that requires the Secretary of the Interior, on October 1, 1992, and each October 1 thereafter, to adjust the dollar amounts specified in the formulas for calculating PILT payments in subsection (b) and in the table in subsection (c) to reflect changes in the rate of inflation as measured by the Consumer Price Index for the year ending the preceding June 30.

Section 3 amends 31 U.S.C. 6902(b), which provides that the Federal Government may not make PILT payments on lands that were exempt from real estate taxes when the land was conveyed to the United States, to allow lands that were conveyed to the United States in exchange for Federal lands to be eligible for PILT.

Cost and Budgetary Considerations

The following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. Congress,
Congressional Budget Office,
Washington, DC, November 12, 1991.

Hon. J. Bennett Johnston,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has reviewed S. 140, a bill to increase federal payments in lieu of taxes to units of general government, and for other purposes, as ordered reported by the Senate Committee on Energy and Natural Resources on October 30, 1991.

Enactment of S. 140 would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to the bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

Robert D. Reischauer, *Director.*

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 140.

2. Bill title: A bill to increase federal payments in lieu of taxes to units of general government, and for other purposes.

3. Bill status: As ordered reported by the Senate Committee on Energy and Natural Resources on October 30, 1991.

4. Bill purpose: S. 140 would change the formula used to calculate payments in lieu of taxes (PILT payments) to local governments and would provide for annual adjustments to these payments based on changes in the Consumer Price Index (CPI). Counties containing certain types of federal land within their borders currently receive PILT payments as compensation for taxes that

would be levied on these lands if they were privately owned. The changes in the formula would increase the amount of money authorized for PILT payments, though total payments would still be limited to the amounts provided in appropriations acts. The bill also would delete a provision of current law that prevents the federal government from making PILT payments on certain lands.

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1992	1993	1994	1995	1996
Estimated authorization level	141	150	159	168	178
Estimated outlays	141	150	159	168	178

This table does not include an estimate of the impact of a provision in S. 140 that deletes a current prohibition on making PILT payments on certain federal lands. While enactment of this provision would further increase the authorization for PILT payments, CBO has no information on the number of acres nationwide that would be affected.

The costs of this bill fall within budget function 800.

Basis of estimate: For the purposes of preparing this estimate, CBO assumed that S. 140 would be enacted early in fiscal year 1992 and that appropriations would be provided as estimated.

The Bureau of Land Management provided CBO with an estimate of additional payments that each county would have received in 1991 as a result of the formula changes specified in the bill. CBO estimated that the 1992 payment, under the formula in the bill, would be about the same as in 1991—$242 million. We then estimated the 1993–1996 payments based on projected increases in the CPI, as specified in the bill. On this basis, estimated PILT payments would reach $279 million in 1996. The 1992 appropriations bill for the Department of the Interior and related agencies provides about $101 million for the payments affected by this bill. Under current law, we expect such payments to remain at about this level over the 1993–1996 period. The estimated cost of S. 140 is the difference between payments under the formula specified in the bill and the $101 million a year we expect under current law.

6. Pay-as-you-go considerations: The Budget Enforcement Act of 1990 sets up pay-as-you-go procedures for legislation effecting direct spending or receipts through 1995. CBO estimates that enactment of S. 140 would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to the bill.

7. Estimated cost to State and local governments: Assuming appropriation of the necessary funds, county governments would receive additional PILT payments beginning in fiscal year 1992 as specified in the table above.

8. Estimate comparison: None.

9. Previous CBO estimate: None.

10. Estimate prepared by: Theresa Gullo.

11. Estimate approved by: C.G. Nuckols for James L. Blum, Assistant Director for Budget Analysis.

Regulatory Impact Evaluation

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 140. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 140, as ordered reported.

Executive Communications

On July 12, 1991, the Committee on Energy and Natural Resources requested legislative reports from the Department of Agriculture, the Department of Interior and the Office of Management and Budget setting forth executive agency recommendations on S. 140. These reports had not been received at the time the report on S. 140 was filed. When the reports become available, the chairman will request that they be printed in the Congressional Record for the advice of the Senate. The testimony provided by the Bureau of Land Management and the Forest Service at the subcommittee hearing follows:

STATEMENT OF ADAM A. SOKOLOSKI, DEPUTY ASSISTANT DIRECTOR, ENERGY AND MINERAL RESOURCES, BUREAU OF LAND MANAGEMENT, UNITED STATES DEPARTMENT OF THE INTERIOR

I appreciate the opportunity to appear here today to discuss S. 140, a bill to increase Federal payments in lieu of taxes (PILT) to units of general local government.

The Administration opposes enactment of this bill for reasons stated below.

The intent of the S. 140 is to raise the payments for entitlement lands under the current statutory formula for PILT and to provide for future increases to reflect changes in the rate of inflation. A summary of S. 140 is attached to this statement.

Our analysis is that the proposed changes will authorize significantly increased PILT payments to qualifying units of general local government. Our estimate is that the formula changes will increase the total PILT authorization to about $248 million annually. This represents an estimated increase of $145 million from the $103 million paid in fiscal year (FY) 1990. Our estimate of the annual payment level was calculated by applying FY 1990 actual data on entitlement acres, prior FY Federal land payments, and appropriate population figures to the revised formula.

We oppose enactment of S. 140 because the current level of PILT payments, in conjunction with the sharing of revenues generated on Federal landholdings, is sufficient to compensate local governments. While recognizing the impact large Federal landholdings may have on some counties and other units of local government, we have several concerns with the S. 140. The first is that there is little evidence to indicate that current payment levels are not suffi-

cient to fairly compensate local governments; the second is the source of funding for the new bill. Our remaining concern is the assumption of a direct relationship between inflation rates, the impact of Federal landholdings, and the sufficiency of PILT payments.

The current formula was enacted in 1976 and subsequently amended in 1983 to clarify the definition of "unit of general local government" and to permit States to enact legislation to reallocate payments in whole or in part to other smaller units of general local government. The present level of $105 million annually in appropriations is sufficient to ensure that each eligible unit of general local government receives a full payment as provided for by PILT. In addition to the PILT payments many of the units of government may also receive shares of the revenues generated from Federal landholdings. The eleven Federal land payment statutes generating revenues which serve as offsets reducing payments under the PILT formula provided $270 million in FY 1989 payments to States and counties. Thus, on an annual basis, about $373 million is provided from Federal landholdings.

An additional concern is the annual automatic inflation adjustment. We know of no study that demonstrates a direct corresponding relationship between inflation increases and the ability of local governments to raise tax revenues. The PILT program was enacted as a means of compensating local governments for diminished opportunities to tax real property since such property owned by Federal agencies is not subject to local property tax.

We believe that foregone opportunities to tax are more closely related to a variety of local factors than to a general inflation index. Additionally, adjustments to the inflation index could result in decreased payments in times of economic hardship if deflation occurs. One of the principal concerns expressed by local officials, in addition to an increased payment, is the desire for relatively uniform payments to assist in financial planning. We believe it would be more appropriate for Congress to periodically review the formula to determine if it represents sound public policy or needs revision. Such deliberations by Congress can more effectively judge the need for changes than increases or decreases associated with inflation levels.

Due to the fact that PILT payments are subject to annual appropriation, enactment of S. 140 would have no known pay-as-you-go impact under the Budget Enforcement Act of 1990.

This concludes my prepared comments. I will be happy to respond to questions.

BILL SUMMARY—S. 140

Section 1 of S. 140 would increase payments by amending Section 6903(b)(1) of title 31 of the United States Code to change two rates for calculating potential gross payments and raising the limitation on the amount of a unit of local government might receive. The first change would be to raise from 75 cents to $1.65 the gross amount of money to be paid each year to a unit of general local government for each acre of Federal entitlement land located within such unit. This amount would be reduced by the amounts

the unit received in the prior fiscal year (FY) under eleven Federal land payment laws. The reduction would be limited to allow the total payment to go no lower than zero.

The second rate change would be to raise from 10 cents to 22 cents the amount of money to be paid per year to a unit of general local government for each acre of Federal entitlement land located within such unit, without reduction for prior FY Federal land payments.

Section 1(b) would amend section 6903(c)(1) of title 31 by replacing the present limitation of "$50 times the population" with "$110 times the population" and amending the table at the end of the section to reflect corresponding increased amounts for each population size.

Section 2 of S. 140 would add a new subsection to section 6903 of title 31 to index future payments in lieu of taxes to reflect changes in the rate of inflation as measured by the Consumer Price Index.

STATEMENT OF GEORGE LEONARD, ASSOCIATE CHIEF, FOREST SERVICE, UNITED STATES DEPARTMENT OF AGRICULTURE

Mr. Chairman and members of the subcommittee, thank you for the opportunity to provide the Subcommittee with the Department of Agriculture's views on the bills being discussed today.

S. 140, Increase Federal Payments in Lieu of Taxes

The administration opposes enactment of S. 140.

Regarding technical aspects of S. 140, the Department of Agriculture defers to the Department of the Interior, administrators of the Payments In Lieu of Taxes (PILT) disbursements. However, for the record, there are 191,395,243 acres of National Forest system lands which are defined as "entitlement lands" for the purposes of section 6903 of title 31, United States Code.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 140, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 31—MONEY AND FINANCE

CHAPTER 69—PAYMENT FOR ENTITLEMENT LAND

* * * * * * *

§ 6902. Authority and eligibility

(a) The Secretary of the Interior shall make a payment for each fiscal year to each unit of general local government in which entitlement land is located. A unit may use the payment for any governmental purpose.

(b) A unit of general local government may not receive a payment for land for which payment under this chapter otherwise

may be received if the land was owned or administered by a State or unit and was exempt from real estate taxes when the land was conveyed to the United States Government. This subsection does not apply to payments for land a State or unit acquires from a private party to donate to the Government within 8 years of [acquisition.] *acquisition, nor does this subsection apply to payments for lands conveyed to the United States in exchange for Federal lands.*

* * * * * * *

§ 6903. Payments

(a) In this section—

(1) "payment law" means—

(A) the Act of June 20, 1910 (ch. 310, 36 Stat. 557);

(B) section 33 of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1012);

(C) the Act of May 23, 1908 (16 U.S.C. 500);

(D) section 5 of the Act of June 22, 1948 (16 U.S.C. 577g, 577g–1);

(E) section 401(c)(2) of the Act of June 15, 1935 (16 U.S.C. 715s(c)(2));

(F) section 17 of the Federal Power Act (16 U.S.C. 810);

(G) section 35 of the Act of February 25, 1920 (30 U.S.C. 191);

(H) section 6 of the Mineral Leasing Act for Acquired Lands (30 U.S.C. 355);

(I) section 3 of the Act of July 31, 1947 (30 U.S.C. 603); and

(J) section 10 of the Act of June 28, 1934 (known as the Taylor Grazing Act) (43 U.S.C. 315i).

(2) population shall be determined on the same basis that the Secretary of Commerce determines resident population for general statistical purposes.

(3) a unit of general local government may not be credited with a population of more than 50,000.

(b)(1) A payment under section 6902 of this title is equal to the greater of—

(A) [75 cents for each acre of entitlement land] *$1.65 for each acre of entitlement land* located within a unit of general local government (but not more than the limitation determined under subsection (c) of this section) reduced (but not below 0) by amounts the unit received in the prior fiscal year under a payment law; or

(B) [10 cents for each acre of entitlement land] *22 cents for each acre of entitlement land* located in the unit (but not more than the limitation determined under subsection (c) of this section).

(2) The chief executive officer of a State shall submit to the Secretary of the Interior a statement on the amounts of payments the State transfers to each unit of general local government in the State out of amounts received under a payment law.

(c)(1) The limitation for a unit of general local government with a population of not more than 4,999 is [$50 times the population] *$110 times the population.*

(2) The limitation for a unit of general local government with a population of at least 5,000 is the following amount (rounding the population off to the nearest thousand);

[If population equals—	the limitation is equal to the population times—
5,000	$50.00
6,000	47.00
7,000	44.00
8,000	41.00
9,000	38.00
10,000	35.00
11,000	34.00
12,000	33.00
13,000	32.00
14,000	31.00
15,000	30.00
16,000	29.50
17,000	29.00
18,000	28.50
19,000	28.00
20,000	27.50
21,000	27.20
22,000	26.90
23,000	26.60
24,000	26.30
25,000	26.00
26,000	25.80
27,000	25.60
28,000	25.40
29,000	25.20
30,000	25.00
31,000	24.75
32,000	24.50
33,000	24.25
34,000	24.00
35,000	23.75
36,000	23.50
37,000	23.25
38,000	23.00
39,000	22.75
40,000	22.50
41,000	22.25
42,000	22.00
43,000	21.75
44,000	21.50
45,000	21.25
46,000	21.00
47,000	20.75
48,000	20.50
49,000	20.25
50,000	20.00]

If population equals—	*the limitation is equal to the population times—*
5,000	*$110.00*
6,000	*103.00*
7,000	*97.00*
8,000	*90.00*
9,000	*84.00*
10,000	*77.00*
11,000	*75.00*
12,000	*73.00*
13,000	*70.00*
14,000	*68.00*
15,000	*66.00*

16,000	65.00
17,000	64.00
18,000	63.00
19,000	62.00
20,000	61.00
21,000	60.00
22,000	59.00
23,000	59.00
24,000	58.00
25,000	57.00
26,000	56.00
27,000	56.00
28,000	56.00
29,000	55.00
30,000	55.00
31,000	54.00
32,000	54.00
33,000	53.00
34,000	53.00
35,000	52.00
36,000	52.00
37,000	51.00
38,000	51.00
39,000	50.00
40,000	50.00
41,000	49.00
42,000	48.00
43,000	48.00
44,000	47.00
45,000	47.00
46,000	46.00
47,000	46.00
48,000	45.00
49,000	45.00
50,000	44.00

(d) The Secretary of the Interior shall, on October 1, 1992, and each October 1 thereafter, adjust each dollar amount specified in subsections (b) and (c) to reflect changes in the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor, for the 12 months ending the preceding June 30.

○